STATEMENT OF
JAMES C. MAY
PRESIDENT AND CEO
OF THE
AIR TRANSPORT ASSOCIATION OF AMERICA, INC.
BEFORE THE
AVIATION SUBCOMMITTEE
OF THE
SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
CONCERNING FAA REAUTHORIZATION LEGISLATION
MARCH 8, 2007

Congress, in the coming months, has the singular opportunity to lay the foundation for a truly 21st century air traffic control (ATC) system that will safely, efficiently and equitably meet the growing needs of system users; and thereby benefit those who rely on air transportation, the communities that airlines serve, the innumerable industries that depend on air service and our nation's economy.

All who are interested in the future of civil aviation in our nation are witnessing a historic convergence of factors that will shape aviation for decades to come – the closely approaching deadline to enact reauthorization legislation for the Federal Aviation Administration (FAA), the undisputed imperative to modernize the ATC system, and the well-recognized need to return to an ATC funding mechanism that matches the costs that users impose on the system with the fees that they pay for ATC services. The inescapable reality is that the ever-growing demand of passengers and shippers for air transportation cannot continue to be met by an ATC system that was introduced in the mid-20th century and that relies on a decades-old funding scheme that has strayed far from its original intent.

The stakes are enormous; the public-interest considerations are clear; and the need for prompt, decisive action is undeniable.

I. OVERVIEW

The benefits of a modernized and equitably funded ATC system will be considerable and will be widely distributed throughout our society:

- **Safety:** Will provide more precise information about aircraft locations, both in the air and on the ground, and will enable aircraft to constantly know one another's locations.
- **Passengers and shippers:** Will ensure needed growth in capacity to satisfy customers' expanding demands for air service.
- **ATC system users**: Will enable the ATC system to continue to accommodate all users – general aviation, corporate aviation, airlines and the military – and to do so more efficiently than today; careful project justification will assure stakeholders that modernization projects are necessary and their costs are contained.

- **FAA:** Will assure a stable, predictable revenue stream, thereby enabling the orderly and efficient transformation of the ATC system.
- **Equity:** Will assure that each user pays its fair share but no more, unlike today where airlines pay for 94 percent of Airport and Airway Trust Fund (AATF) revenues but only use 68 percent of ATC system services.
- **Environment:** Will reduce aircraft emissions through fuel conservation that more efficient flight paths and separation standards will achieve.
- **Communities:** Will promote air service to communities, large and small, and the economic benefits that flow from being linked to the air transportation system.
- **U.S. economy:** Will assure that our economy continues to benefit from air transportation's ability to move people and goods quickly and economically.

II. WHAT WE'RE *NOT* SAYING

Rhetoric sometimes does not coincide with reality in the ongoing debate about FAA reauthorization legislation. We want to make a few preliminary points to set the record straight:

- **We are *not* saying that piston-powered general aviation aircraft should pay the same as turbine-powered aircraft.** Piston-powered general aviation aircraft generally fly at different altitudes than turbine-powered aircraft and therefore often impose no or few demands on ATC system resources. Any funding mechanism should reflect that difference, just as it can reflect the difference between daytime and nighttime operations.
- **We are *not* saying that small communities should be left to fend for themselves.** Small communities have unique air service needs. Reauthorization legislation should recognize those needs in its funding and Essential Air Service Program provisions.
- **We are *not* saying that Congress should end its role of guiding the direction of the air traffic control system.** We are not trying to strip Congress of its role of overseeing ATC funding decisions. On the contrary, we are upholding Congress' historic view that funding should be cost based.
- **We are *not* saying that the air traffic control system should be privatized.** The ATC system must be modernized and its funding mechanism reformed but the FAA should continue to be the supplier of air traffic control services. Modernization and reform should not be equated with privatization.
- **We are *not* saying that airlines should control who has access to the nation's airspace.** Instead, we are saying that unless the system is modernized and a sound funding mechanism for it is created, capacity constraints will increasingly limit the access of all users – general aviation, corporate aviation, airlines and the military.

III. THE INDISPENSABLE ROLE OF THE AIRLINE INDUSTRY IN THE U.S. ECONOMY

The U.S. airline industry is not simply an important sector of the national economy; its services fuel our entire economy. Air transportation is an indispensable element of America's infrastructure and our nation's economic well-being. Individuals, businesses and communities depend on the national air transportation system. **U.S. airlines transport over two million passengers on a typical day and directly employ 550,000 persons to do so; they provide just-in-time cargo services; they are the backbone of the travel and tourism industry, which annually generates $1.3 trillion in economic activity in the United States; and airlines link communities throughout our nation and to the world.**

Moreover, the airline industry is the foundation of the commercial aviation sector, which is comprised of airlines, airports, manufacturers and associated vendors. **U.S. commercial aviation ultimately drives $1.2 trillion in U.S. economic activity and 11.4 million U.S. jobs.** By any measure, the U.S. airline industry is a valuable national asset and its continued economic health should be a matter of national concern.

We also recognize how critical air service is to the small communities of our nation. For that reason, we firmly support the continuation of a strong Essential Air Service Program. Any reauthorization needs to include such a continuation.

This key element of our nation's infrastructure cannot sustain its vital role of transporting people and goods if the government infrastructure that it depends upon, the ATC system, becomes an impediment. Air transportation risks becoming a wasting national asset if three of its most distinguishing characteristics – speed, dependability and efficiency – are encumbered by an increasingly obsolescent ATC system.

IV. TODAY'S AIR TRAFFIC CONTROL SYSTEM IS SHORTCHANGING OUR FUTURE

The current system is based on 1950s architecture. It was cutting edge during the era of Ozzie and Harriet but not today. Although the ATC system in the past has served users well, this outdated infrastructure cannot meet the operational needs of 21st century civil aviation. It will not be able to serve the needs of passengers and shippers, private pilots, and corporate aircraft, or accommodate the ongoing introduction of unmanned aerial vehicles.

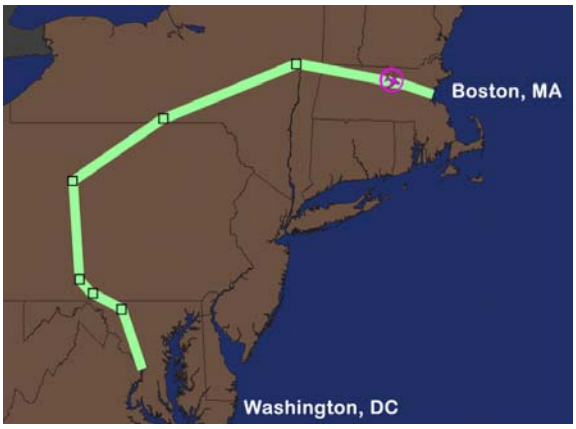
The current ATC system relies on a series of ground-based platforms. Navigational aids, radar and controllers are all terrestrial. They are linked to form a very complex network system that supports airways, through which aircraft fly. The system was designed to create point-to-point routings, which by their very nature are finite. Its components reflect that paradigm.

Airways, unfortunately, increasingly resemble many highways: they have become saturated. What we have come to realize is that the ground-based system that supports

point-to-point airways cannot produce substantial new capacity. We have no choice but to introduce new technology to generate needed capacity.

Obsolescent ATC technology and the operating procedures that are tied to them mean that many aircraft routings – for airline, corporate and general aviation aircraft – are inefficient and will become increasingly so as we move further into the new century. Because of these inherent technological limitations, today's ATC system cannot – and never will be able to – take full advantage of available technology or integrate and fully exploit emerging technology. Potential capacity enhancements and efficiency improvements, so critical to meeting growing air traffic demand and responding to environmental concerns, will remain unrealized unless the ATC system is promptly and thoroughly transformed.

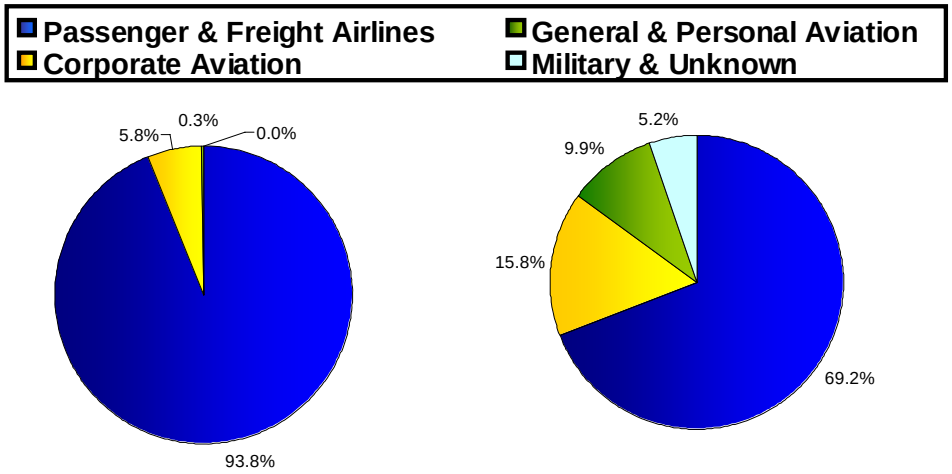
Today's System is Inefficient



Aircraft frequently zigzag between ground beacons to navigate – an inefficient process that wastes time and fuel while generating excess emissions. This route was flown by an ATA member airline in December 2005, from Washington, D.C. to Boston. This route is about 35 percent longer than the direct route. Weather was not a factor in this situation. This type of flying happens regularly in the NAS.

Imperiling needed improvements is the fact that the ATC system's funding mechanism is a relic of 1970. Such an artifact has no place in the 21st century. It was created when corporate and general aviation aircraft were insignificant users of the system. This is no longer so. **Today corporate and general aviation consumes 26 percent of the system's services but contributes only six percent of Trust Fund revenues.** As Secretary of Transportation Peters said recently, **"Under the current tax structure, it is clear that taxes paid by different user categories do not generally reflect the costs those users impose on the system."** [1] Corporate aircraft will use an even greater proportion in the future as thousands more business aircraft and very light jets (VLJs) are introduced. Funding for a modernized ATC system must reflect that changed – and changing – reality.

[1] Feb. 14, 2007, letter of Secretary Peters transmitting the proposed Next Generation Air Transportation System Financing Reform Act of 2007 to the Senate at p. 3.



Airlines pay 94% of Trust Fund revenues…

…but only account for 69% of all flights

V. WHAT DELAYS COST TODAY

Airlines schedule their flights based on demand; i.e., when people want to fly and when cargo needs to be delivered. Airlines don't create that demand, customers do. Aviation infrastructure must respond to what consumers want.

The Department of Transportation has estimated that in 2005 the cost of delays to U.S. airline passengers was $9.4 billion. The cost to airlines is also tremendous. Every minute of flight delay experienced in 2005 imposed an estimated $62 in direct costs on airlines. **The 94.1 million cumulative delay minutes in 2005 therefore generated $5.9 billion in costs to the airline industry and a total projected cost to the U.S. economy of $15.3 billion.** Expressed differently, 2005 delays cost $484 *per second.*

ATC system capacity must be dramatically expanded – and soon. Flight delays, as noted above, are bad today and they will get worse. The current system cannot handle what is coming. ATC system users, and the ultimate beneficiaries of aviation services – travelers, shippers, businesses and communities – need an air traffic control system that can make the most of contemporary and new technology.

VI. THE NEED FOR IMMEDIATE ACTION

Secretary of Transportation Peters only three weeks ago said, **"The current aviation system simply cannot handle future traffic increases without major delays, making system transformation necessary."**[2] The Secretary's assessment is indisputable. The nation's airways will become more and more congested as increasing demand,

[2] Feb. 14, 2007, letter transmitting the proposed Next Generation Air Transportation System Financing Reform Act of 2007 to the Senate at p. 1.

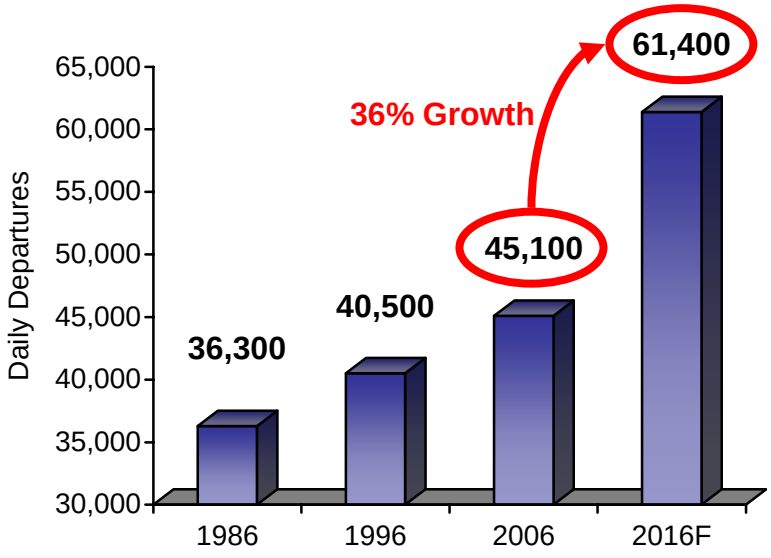
particularly from rapidly rising numbers of corporate and VLJ aircraft, overwhelms existing capacity.

The best estimates inform us that, without prompt and thorough modernization, the ATC system will progressively asphyxiate. More and more airports and more and more airspace will become congested, increasingly choking civil aviation in our country. Gridlock will become a common word in aviation parlance.

Numbers starkly tell the story. **The FAA projects that one billion passengers will be enplaned in 2015, up from nearly 750 million enplanements in 2006.** That projection reflects an unabated demand for air transportation – no "breathing spell" is forecast. The FAA also predicts that 10,000 corporate aircraft, including traditional business jets, turboprops and VLJs, will be added to the fleet between 2007 and 2017. This will significantly shift the proportion of air carrier to business aircraft using ATC services. It will also generate extraordinary new demands for those services. **Instrument flight rule operations – the most significant source of demand on the ATC system – are projected to rise by 36 percent, from roughly 45,000 per day to over 61,000 per day, in the next decade. That new burden will be on top of an ATC system that today is displaying unmistakable evidence of strain. To place this in some perspective, that strain is evident on days when at any given time, on average, only 6,000 aircraft are flying in the ATC system.**

Change Required to Meet Growth

FAA Projects 36% increase in daily flights in ten years



Source: FAA Aerospace Forecasts

The existing ATC system cannot absorb that anticipated demand. It suffers from fundamental structural limitations, principally attributable to the system's reliance on

ground-based navigation, radar and communications facilities. The result is that the current system is not scalable; the system cannot be expanded to meet upcoming demand. It is not the system to meet the future growth of civil aviation – airline, corporate or general aviation.

The ominous consequence of all of this is that delays are forecast in 2014 to increase by 62 percent over 2004 levels. That level of delays will be intolerable. Such an increase will have profound repercussions on airlines, ATC operations and airline customers, and will ripple across our economy. The effect on the total U.S. economy is likely to be immense. **The Joint Planning and Development Office has estimated that the cost of failing to meet future airspace demand could approach $40 billion annually by 2020.**[3]

Today's System Cannot Handle Future Demand

Russ Chew
Former COO, FAA ATO

"We project that if traffic grows as expected, by 2014, delays in the U.S. will increase 62 percent over 2004 levels. These projected delays will cost the airlines at least $2 billion in extra costs that will seriously erode profits needed for future fleet and infrastructure expansions."

Russ Chew, Former Chief Operating Officer of FAA Air Traffic Organization, on Sept. 28, 2006, ICAO Congested Skies Conference.

The nature and extent of these anticipated delays need to be understood. An increase in delays of that magnitude will mean that airspace and airports that have not experienced chronic delays will routinely experience them in the future. It will not simply be that afflicted airports will get worse, the affliction will spread.

Schedule reliability will be the immediate casualty of such a surge in delays. Not only will flights be delayed, connections will be missed and chronically delayed flights will be cancelled. Service unpredictability at a level not previously experienced could materialize. Passengers and shippers and those who rely on the transportation of those people and products will suffer, and their suffering will worsen month by month, year by

[3] GAO, *Next Generation Air Transportation System* at p. 16 (GAO Report No. 07-25, Nov. 13, 2006).

year. Industries and communities dependent on civil aviation, whether for scheduled airline service or general aviation operations, will be similarly affected.

While customers will not accept such a result, neither will airlines or the FAA. Both airlines and the FAA will reconfigure their operations to respond to worsening ATC system performance. It will certainly not be business as usual if gridlock begins to cascade through the system. Sooner or later, access to airline services and ATC services will be limited in some way or ways. If flight schedule reliability deteriorates, airlines will stretch out their schedules and flight connection times. That, of course, will make airline operations less efficient and more costly. It also will diminish the attractiveness of air transportation and some customers will look for substitute means of transportation, thereby exposing airlines to further financial distress. Were ATC operational performance to worsen, the FAA would predictably explore measures to ration demand on the system. We have experienced that before with the High Density Airport Rule and its progeny, and in the aftermath of the PATCO strike during the first half of the 1980s. We do not want to repeat that experience.

If the government does not embark on the necessary transformation of the ATC system, it risks becoming the regulator of inconvenience. That is not the role that any of us wants it to assume.

VII. THE SOLUTION – TECHNOLOGY AND FAIR FUNDING WILL PREVENT GRIDLOCK

A satellite-based air traffic control system will provide the means to reduce delays and congestion that otherwise will occur. The benefits of a technologically up-to-date ATC system that is equitably funded will be extensive and will be widely distributed throughout the user community.

A. A Modern Air Traffic Control System: We Can Do It

Air traffic control system modernization is neither novel nor revolutionary. It is being accomplished elsewhere in the world. We can do the same.

ATC service providers in other nations have recognized the need to replace antiquated ground-based systems. They have taken steps to transform those systems to satellite-based, digital air traffic management systems that ensure safety, generate added efficiency and produce additional airspace and airport capacity. Large and small countries have done so. For example, Fiji introduced a GPS-based air navigation system over a decade ago. Australia, Canada, China, France, Germany, India, Switzerland and the United Kingdom are implementing next-generation ATC systems.

The Alaska Capstone Program, Required Navigation Performance (RNP) terminal arrival and departure routings at Atlanta and Dallas/Ft. Worth, and RNP instrument approach procedures at airports that have challenging approaches, such as Juneau, Palm Springs and Reagan National in Washington, have given us a preview of what more extensive application of new technologies can deliver for system users in this country. A broadly

modernized air traffic control system will enable all types of aircraft to take full advantage of Area Navigation Procedures (RNAV), RNP and Automatic Dependent Surveillance-Broadcast (ADS-B). This will make flying safer and far more efficient.

1. The Safety Benefits

Increases in system capacity are understandably cited in discussions about the benefits of ATC system modernization. Improvements in safety, however, are what should first and foremost command our attention. Some of those improvements have already been accomplished; others are plainly attainable. A sharp drop in aircraft accidents in Alaska has occurred since the Capstone Program, which relies on ADS-B, was introduced earlier in this decade. Widespread use of ADS-B in the future will enable aircraft locations to be more precisely identified. This will be very helpful while aircraft are airborne but will also be useful in ongoing efforts to reduce runway incursions while on the ground.

2. The Capacity Benefits

Capacity improvement is another core reason for ATC system modernization. New technology will enable aircraft to be unshackled from the ground-based, point-to-point navigation systems and associated analog communications systems under which they have operated for over three-quarters of a century. New technology will also enable the more precise spacing of aircraft. The ability to fly outside of existing point-to-point airways and improved precision will enable aircraft to operate more efficiently in airspace, whether it is en route or terminal area. That new-found efficiency will translate into added capacity. It also means, as noted above, the ability to use satellite-based instrument approach procedures at some runways that today have limited or no availability in instrument meteorological conditions – another important capacity enhancement.

The wider use of digital communications, which will be an integral element of the modernization effort, will relieve congested voice communications channels, increasing the capacity to transmit quickly and accurately air traffic control information. This will mean a more orderly transmission of critical information, which will benefit both pilots and controllers, especially during peak workload periods. Furthermore, wider use of digital communications will diminish the possible blocking of voice communications between pilots and controllers in high-volume situations that can occur today, which is an increasing safety concern.

3. The Environmental Benefits

In addition, routing efficiency improvements will yield significant environmental benefits. Experts estimate that modernization of U.S. airspace management could result in 12-15 percent improved environmental performance. We have already seen such benefits. For example, the introduction of more precise RNP arrival and departure procedures in the Atlanta terminal area is projected to eliminate 483 million tons of CO_2 annually.

All of these benefits can be achieved; they are being achieved elsewhere in the world. To build a modernized ATC system, however, we need a modern funding system.

B. Funding – The Need to Return to Our Roots

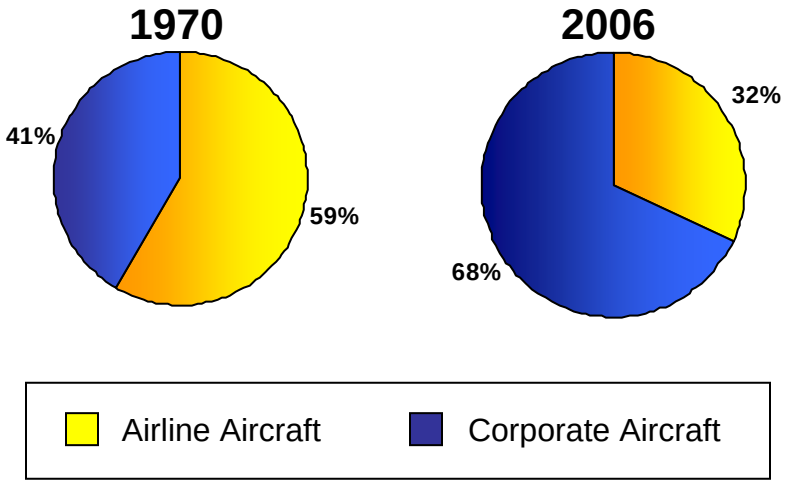
Much of the funding predicament that we face today is because the user-pay principle that Congress embraced decades ago has been abandoned. When it comes to funding the ATC system, therefore, we need to return to our roots.

When Congress in 1970 enacted the Airport and Airway Trust Fund, the funding structure was based on two bedrock principles: user-pays financing and cost-based financing. Back then, airlines were the principal users of the system. They, as a result, were responsible for much of the ATC system costs. Funding of the Trust Fund was consequently mostly through the ticket tax. That made sense nearly four decades ago. It reflected a relationship between use and payments. That relationship is what Congress intended when it enacted the 1970 legislation.

1. Corporate aviation has grown dramatically

Congress in 1970 created a cost-based funding mechanism that mirrored the composition of air transportation. Times have changed. **When the Trust Fund was created, there were 2,500 commercial aircraft and only 1,800 corporate aircraft using the system. Today there are 8,000 commercial aircraft and 17,000 corporate planes.** But airline passengers still pay 94 percent of all aviation taxes/fees while corporate fliers pay just 6 percent. The Trust Fund has not evolved to reflect this change in who is using the ATC system. As a result, travelers who fly on commercial airlines subsidize those who fly on corporate planes. The chart below shows this dramatic shift in the makeup of system users.

U.S. Fleet Makeup Has Changed
Comparison of Jet Fleet Since Trust Fund Inception



Source: FAA Aerospace Forecasts, 1970 - 2006

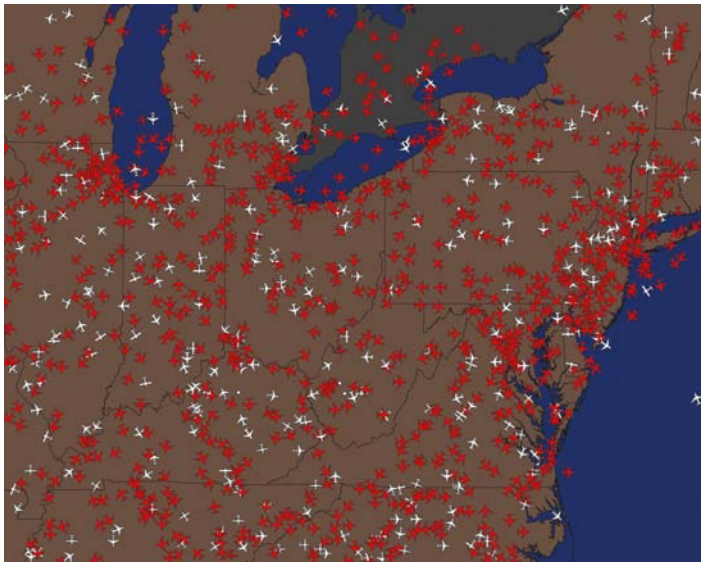
Furthermore, business aircraft frequently fly during peak travel hours and often use the same airspace as the nation's airlines; many times they are consuming the premium services of the ATC system. The magnitude of that demand is substantial. For example, on an average day there are 238 IFR operations at Teterboro Airport. This compares with an average of 301 IFR operations by Continental Airlines at nearby Newark Airport. These corporate users are not merely putting incidental demands on the system, as the depiction below graphically demonstrates.

A Blip is a Blip

- ***Primary and secondary airports use the same airspace***
- ***Planes in the same airspace impose the same costs on the system***

Commercial Passenger & Cargo Flights

Non-military ATC System Users

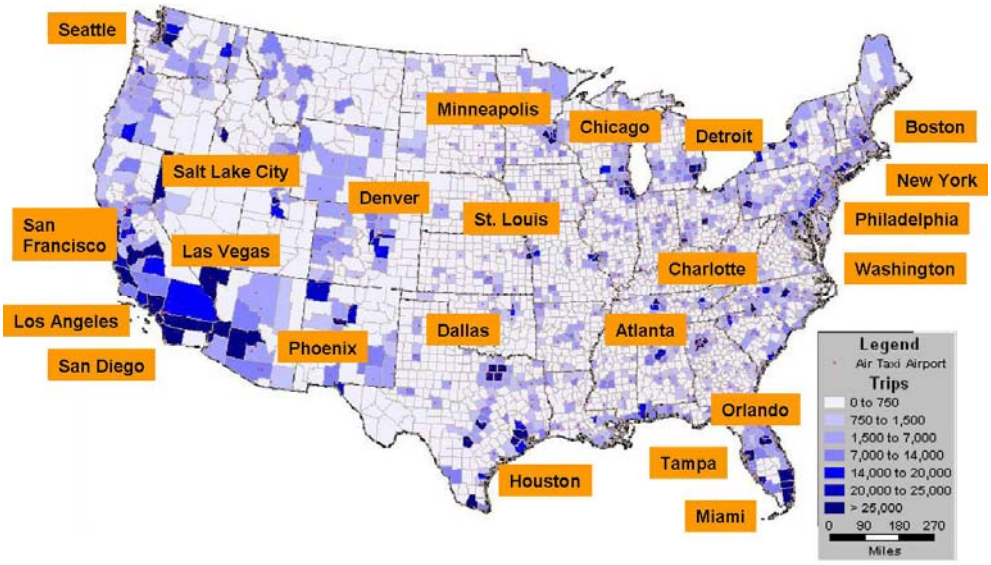


Snapshot taken on Wednesday, March 7, 2007, 11:30 a.m.

The business aviation industry is projected to grow even larger over the next decade with the introduction of next-generation aircraft called very light jets (VLJs) that in many instances will be able to fly at the same altitudes as airline aircraft. Not surprisingly, according to FAA data, business aviation is the fastest growing segment of the aviation industry. Indeed, there have been well-publicized reports of investors' plans to order vast numbers of VLJs to create new air-taxi services. This will be pure commercial usage of the ATC system. In no way will it resemble the recreational pilot flying from a general aviation airport on a Saturday afternoon.

As the depiction below clearly indicates, VLJ operations are forecast to be more concentrated than is commonly understood. They will not simply be operating between low-activity airports, or in low-activity terminal airspace or underutilized en route airspace. VLJs and their brethren, corporate aircraft, will consume increasingly scarce ATC system resources.

New VLJs to Serve Major Markets



Forecast of annual originating VLJ air-taxi trips by county in 2017

Source: CRA International with Calculations by Virginia Polytechnic Institute. Paid for by Eclipse Aviation

2. The principle of equitable funding has been forsaken

When the Trust Fund was established in 1970, the airline industry was regulated and ticket prices were set by the government. In general, those government-set ticket prices reflected the cost of operation. As a result, generating revenue through a tax on ticket prices made sense – it ensured that Trust Fund revenues were linked to the cost of operating the air transportation system. Congress recognized at that time that this cost-based financing principle was equitable because

> "a ticket tax is geared to charge an equitable tax related to the distance traveled and the cost per mile of air operation, since ticket prices for short flights are more per mile than long-line flights and the tax is proportional to the price of the ticket." [4]

Today, ticket prices are based on market competition and have absolutely no correlation to the cost of services. **As a result, the largest source of Trust Fund revenue has absolutely no link to the cost of maintaining and upgrading the aviation system.** The symmetry on which the Trust Fund was based has evaporated.

[4] *Report of Committee on Ways and Means*, reprinted in 1970 U.S.C.C.A.N. 3084.

3. A "fundamental disconnect between the existing tax structure and the FAA's workload"

There is no correlation today between revenue collected and services consumed. Airlines pay for 94 percent of Trust Fund revenues but only use 68 percent of ATC system services. The result of this inequity is that airlines, and ultimately their customers, are heavily subsidizing other users of the system. As Secretary of Transportation Peters has very forthrightly said, a "fundamental disconnect between the existing tax structure and the FAA's workload…." [5]

By way of illustration, a Cessna Citation X corporate jet aircraft would contribute an estimated $306 to the Trust Fund when it flies from New York to Los Angeles. An airline's Boeing 757-200 aircraft flying the same route would contribute an estimated $2,660 to the Trust Fund. Both are high-performance aircraft; both fly at the same altitude, in the same airspace; and both place comparable demands on the air traffic control system. Yet, there is an eight-to-one difference in payment for ATC services.

Airline Flight vs. Corporate Jet Flight
Contributions to the Airport and Airway Trust Fund

New York – Los Angeles

Commercial Boeing 757

AATF Contribution: $2,660

Corporate Jet Cessna Citation X

AATF Contribution: $306

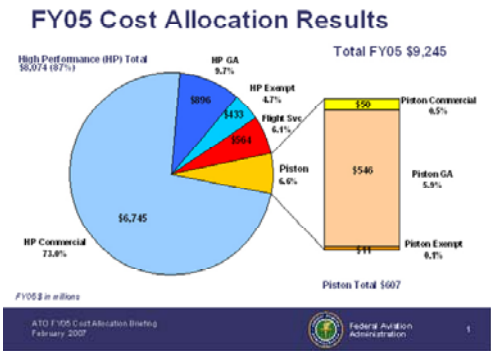
This breathtaking disparity does not tell the whole story. Over time, the foundation of the Trust Fund has badly eroded. Today's funding structure does not assure sufficient future revenues, even for the current ATC system. The worrying trend this decade has been the continuing draw down of the Trust Fund. That, obviously, is unsustainable. In fact, the General Accountability Office has pointed out that past trends and future projections indicate that the "revenue collected under the current funding system has fallen and will continue to fall relative to FAA workload and costs…." [6]

---

[5] Feb. 14, 2007, letter of Secretary Peters transmitting the proposed Next Generation Air Transportation System Financing Reform Act of 2007 to the Senate at p. 3.

[6] GAO, *Aviation Finance - Observations on Potential FAA Funding Options at p. 11* (GAO Report No. 06-973, Sept. 2006).

ATO – Cost Allocation of FY2005 ATO Appropriation (Weight, Size & Purpose of Flight Do Not Drive Costs)



Allocation of FY 2005 ATO Costs					
Based on Proposed Methodology				FY 2004 Taxes Paid	
Commercial	$ 6.749	73%*		$ 8.934	94%
Turbine GA	$ 0.897	10%		$ 0.300	3%
Piston GA	$ 0.610	7%		$ 0.038	0%
Fractionals/135				$ 0.328	3%
Public Users	$ 0.435	5%			0%
Flight Service Stations	$ 0.564	6%			0%
Total	$ 9.255	100%		$ 9.579	100%

* Includes Fractionals, Charters and Air-Taxis

Moreover, today's funding structure does not assure a stable revenue stream. That is because the average ticket price is lower today than it was at the beginning of this decade or, adjusted for inflation, than it was in 1970 at the outset of the Trust Fund. Revenue stability and, therefore, predictability will be essential to the successful modernization of the ATC system. The Trust Fund as presently constituted simply does not assure the wherewithal to sustain the system in the future.

Again, ATC system service providers elsewhere have confronted this issue and satisfactorily responded to it. They have found this to be a straightforward issue. ATC systems throughout the world have implemented cost-based funding arrangements to ensure an adequate, stable revenue stream to fund their modernization efforts. This has occurred in Australia, Canada, France, Germany, New Zealand and the United Kingdom.

In the United States, several independent commissions and studies have examined how best to meet FAA financing needs. Their common and long-standing conclusion has been that reform is urgently necessary. For example, before the last Trust Fund reauthorization in 1997, Congress established the 21-member National Civil Aviation Review Commission that former Transportation Secretary Norman Mineta chaired. **The Mineta Commission unanimously recommended that FAA revenues be more closely linked to the cost of providing services. As it stated:**

> **"The Commission recommends that the FAA adopt a cost-based revenue stream to support its air traffic system activities including capital investments.** At the same time, funding for aviation security, safety, and government use of the air traffic system should be provided by the federal government's general fund." [7]

Four years before that report, the National Commission to Ensure a Strong Competitive Airline Industry, which former Virginia Governor Gerald L. Baliles chaired, concluded that the existing federal budget process **"provides neither a stable, predictable source of revenue nor the ability to leverage that revenue…."** [8]

More recently, the Government Accountability Office has said that **"[a]viation experts and stakeholders agree that the incomplete implementation of these recommendations and additional factors could limit FAA's ability to fully address long-standing NAS [National Airspace System] modernization problems."**[9]

For well over a decade, independent authorities have told us that the funding of FAA air traffic services must be changed to reflect contemporary reality. The necessary path has been described to us, many times. We need to follow it.

C. Funding – The Financial Benefits of Returning to Our Roots

A user-pay/cost-based funding arrangement would produce three principal benefits:

- **Lower costs; increased efficiency:** A recent General Accountability Office report noted that the current financing system does not create any incentive to control costs and improve efficiency because use and cost are unrelated. Right now, consumers of FAA ATC services have little or no motivation to rationalize their consumption of those services. User consumption of services and user payment for services are no longer linked. Reestablishing that link will rationalize decision-making about use of the system and, in turn, economize the way the government provides services. The result will be more efficient use and provision of FAA services.
- **Revenue stability:** The Trust Fund's uncommitted balances have fallen by more than 70 percent over the past five years.[10] That is a disturbing development and calls into question the ability of the Fund to support ATC modernization. A return to cost-based financing would generate a stable revenue stream to fund modernization.
- **Equity:** Under the current funding system, two aircraft operators can pay very different amounts even if they use the same services and impose the same costs on the FAA. This is unjustifiable. Charging aircraft operators based on their use of

---

[7] *National Civil Aviation Review Commission Report* at p. I-2 (1997).
[8] *Change, Challenge and Competition* at p. 8 (1993).
[9] GAO, *National Airspace System –Transformation Will Require Cultural Change, Balanced Funding Priorities and Use of All Available Management Tools* at p. 16 (GAO Report No. 06-154, Oct. 14, 2005).
[10] GAO, *Aviation Finance - Observations on Potential FAA Funding Options* at p. 1 (GAO Report No. 06-973, Sept. 2006).

the system would create a more equitable funding system and ensure that all users are paying their fair share.

D. Funding – The Need for Effective Oversight

The principle of equitable funding is not synonymous with writing a blank check. Any change in the financing of the ATC system should only occur if basic oversight issues are addressed. Some of these are knotty but they can and must be resolved.

Congress' role in policy decisions about funding should not be supplanted. We regard that as a given. Indeed, we look forward to Congress exercising that role.

Stakeholders, however, must have a central role in decisions affecting the funding and deployment of ATC system improvements. Their decisionmaking role must reflect their contribution to that funding. We recognize the sensitivity of this issue. But we firmly believe that a usage-fee funding arrangement cannot be allowed to become an open spigot. Cost containment will be vital to successful system modernization. Modernization projects must be carefully justified, user vetted, and held to budget.

VIII. ADMINISTRATION'S PROPOSED FAA REAUTHORIZATION LEGISLATION

The administration's legislative package contains a usage-fee proposal that is a welcome first step in reforming the funding of the FAA. Nonetheless, as noted below, more needs to be done.

The proposed user fee/tax system is based on the FAA Air Traffic Organization cost allocation study. That study clearly recognized that airlines and their passengers grossly overpay today. It concluded that "high performance commercial" users (i.e., turbine aircraft operated in scheduled service, as on-demand charters or under fractional ownership) generated only 73 percent of system costs, although these same users today contribute 94 percent of the revenue that goes to the Trust Fund. The graph and table on page 14 summarize the FAA's cost allocation. This is a very important recognition of the actual costs that users impose on the system.

Unfortunately, one matter that the administration's legislation falls short on is the key issue of airport funding. Airlines pay over $14 billion annually in airport charges and fees – through landing fees, rates and charges, passenger facility charges, and the Airport Improvement Program. We therefore are vitally interested in how in the future airports will be funded and how capacity improvement projects will be approved, especially those funded through the PFC program. The administration's airport-related proposals, however, would not provide airlines a meaningful role in these critical decisions and would virtually eliminate FAA oversight. Airlines and airports need to have a close, collaborative relationship in determining what capacity projects are initiated, project scope and cost, ongoing operations and maintenance costs, and how these various costs are paid for.

Disappointingly, the administration's legislation does not recognize these necessary principles.

Our reactions to several of the propositions in the administration's proposed legislation are described below.

- **User fee authority (§201):** We support a cost-based approach to funding FAA services and the creation of associated borrowing authority but more needs to be done to make the administration's proposal conform to such an approach.
    - On the positive side, the administration's proposal moves to correct the unfairness of the current funding system through the introduction of a cost-based funding system. Permissible fee factors are identified, although a formula is not specified and thus remains up to the FAA to establish. The bonding authority included in the proposal will facilitate the needed modernization of the air traffic control system, although the short repayment period could put substantial upward pressure on user fees.
    - On the negative side, the proposal is silent about how to assure that costs are appropriately contained. This is a very basic issue that needs to be resolved. Furthermore, no judicial review of FAA user-fee determinations would be permitted. This is a significant shortcoming. In addition, recognizing weight as a permissible factor in determining some user fees, which the proposal would, is unjustified. Weight is not a legitimate proxy for the costs that an aircraft imposes on the system. The authority to impose fees for operations in terminal airspace for large hub airports ignores the significant costs that corporate aircraft that do not operate at those airports impose in that airspace.
- **Air Transport System Advisory Board (§401):** The industry supports the creation of a board that can have meaningful decision making authority about key ATO issues, particularly those involving user fees and bonding. Unfortunately, the administration's proposal does not give stakeholders a meaningful voice; the Board would merely be advisory and have no real authority. We realize that this is a contentious issue but it must be directly confronted and resolved. If you pay, you must have a real voice in how your money is spent.
- **Passenger Facility Charges (§301):** Although described as a reform of PFC authority, the administration's proposal could impose an additional $2 billion in taxes on passengers while reducing airlines' voice in and the role of the FAA in the approval of PFC projects. Such changes are unjustified.
- **Airport Improvement Program (§302 et seq.):** Although the administration's proposal would modernize parts of the AIP and would recognize the greater financial ability of large and medium hub airports to fund airport improvements, the proposal includes $1 billion in subsidies for noncommercial airports, most of which would come from airlines and their passengers. Given that the proposal makes no attempt to apply the "pay for what you use" principle to this program, the more than tripling increase of our jet fuel tax from 4.3 cents to 13.0 cents a gallon would be unacceptable.

- **Airport Privatization Program (§806):** This proposal would increase to 15 the number of airports that could be included in the privatization program but would eliminate the requirement of carrier approval of such privatizations. We oppose that provision because of the possibility that the elimination of approval authority could result in transactions that financially disadvantage airport users, including airlines.
- **Facilities and Services Realignment and Consolidation Commission – "FAA BRAC" (§409):** Under this proposal, a BRAC-like process for the realignment and consolidation of FAA facilities and services would be implemented. Effective containment of FAA Air Traffic Organization costs will depend in part on such consolidations. Given the controversy that facility consolidations can create, the administration's proposal is a sensible approach.
- **LaGuardia Airport Operating Authorization Allocations (§503):** The airline industry has opposed the imposition of new costs at LaGuardia. The preponderant view in the industry is that the operational cap coupled with a reinstatement of the secondary market allowed under the previous buy-sell rule, although perhaps needing some improvement, is sufficient to manage congestion and provide for equitable allocation of access to the airport. The industry opposes any scheme under which the airport operator would be allowed to generate excess revenue and divert that revenue to projects that do nothing to address congestion or expand capacity at the airport.
- **Market-Based Mechanism Pilot Program at Congested Airports (§504):** We oppose this proposal because the focus should be on improving capacity at high-volume airports rather than saddling passengers and shippers with far costlier service at the airports that they want to use.
- **FAA War-Risk Insurance Program Extension (§§701, 702):** The industry supports the unchanged extension of both the FAA war-risk insurance program, and the third-party liability cap and punitive damage prohibition. We oppose the administration's proposal to eliminate FAA "first dollar" coverage for such insurance.

We look forward to working with the Committee on these and other issues concerning FAA reauthorization legislation.

IX. CONCLUSION

We need a truly 21st century air traffic control system that will safely, efficiently and equitably meet the growing needs of civil aviation and our national economy. And it needs to be funded the right way so that the revenue that is needed to keep our nation's air commerce vibrant and responsive to consumer needs can be provided fairly and predictably. We cannot permit inertia or parochial considerations to delay achieving that important transformation.